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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 CR 861 (JMF)

5 ROBERT OLINS,

6 Defendant.

7 -----x  
8 New York, N.Y.  
9 May 3, 2016  
2:30 p.m.

10 Before:

11 HON. JESSE M. FURMAN,

12 District Judge

13  
14  
15 APPEARANCES

16 PREET BHARARA

17 United States Attorney for the  
18 Southern District of New York

ANDREA GRISWOLD

19 Assistant United States Attorney

20 DANIEL E. WENNER

JAMES R. DEVITA

21 Attorneys for Defendant  
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(In open court)

THE DEPUTY CLERK: United States versus Olins,  
15 CR 861.

Counsel, please state your name for the record.

MS. GRISWOLD: Good afternoon, your Honor. Andrea  
Griswold for the government.

THE COURT: Good afternoon, Ms. Griswold.

MR. WENNER: Good afternoon, your Honor. Daniel  
Wenner for Mr. Olins.

MR. DeVITA: Good afternoon, your Honor. James DeVita  
as potential substituted counsel, your Honor.

THE COURT: Good afternoon to you. Good afternoon,  
Mr. Olins.

All right. So we are here in connection with the  
application to substitute counsel.

Mr. DeVita, you presumably know that there is a trial  
date in effect.

MR. DeVITA: I do, your Honor. I have an application  
with respect to that. I have a trial scheduled before Judge  
Pauley on June 20. It is predicted by the government to be a  
one-week trial. I would request a brief adjournment of two  
weeks, and I think that that would be something that we would  
be able to work with.

THE COURT: Okay. Well, here's my problem: Number  
one, when I set the trial date, I was very clear that the date

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1 was a firm date and would not be changed absent pretty  
2 extraordinary circumstances. Although Mr. Olins was not  
3 present, I made a point of requiring counsel to have him read  
4 the transcript and affirm that he understood that and  
5 understood that the trial date would not move, specifically  
6 referencing the possibility of an issue with counsel and the  
7 desire to change counsel as one of those considerations.

8 MR. DeVITA: I understand that, your Honor. It became  
9 necessary for Mr. Olins to change counsel shortly after that.  
10 I met with Mr. Olins in the last week, and he has just retained  
11 me. It is possible that the case before Judge Pauley would end  
12 in a plea, but right now it is scheduled to go to trial, and I  
13 don't think that a two-week adjournment is going to be a  
14 substantial inconvenience to anybody.

15 THE COURT: Well, you don't know about my schedule.

16 Ms. Griswold.

17 MS. GRISWOLD: The government would ask the Court to  
18 keep the trial date as it stands. The government, both the  
19 prosecution team specifically, one of the two case agents, has  
20 a July 11th trial currently. I think the week before that is  
21 the week of July 4th. We have also been meeting with witnesses  
22 for the trial with the June 27th date in mind, including  
23 out-of-state witnesses. So it is the government's request that  
24 the trial date remain as it is.

25 I would like to note one other thing, just in full

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1 candor to the Court on this point. The government does  
2 anticipate seeking a superseding indictment sometime in the  
3 next week. It is not based on any additional conduct than that  
4 outlined in the current indictment. It will add a money  
5 laundering charge, based on paragraph 7 and 13 of the current  
6 indictment, refer to a set of wall brackets from which the  
7 defendant was alleged to have applied the proceeds that he  
8 received, or a portion of those proceeds, from the vases and  
9 the dragon candelabra. There's no new discovery on those  
10 charges. The conduct, as I said, is set forth in the current  
11 indictment. Given the topic today, I wanted to flag that, and  
12 we expect to seek that by the end of next week.

13 THE COURT: Am I correct in recalling that there was  
14 an issue with the July date, either the availability of some of  
15 the government witnesses, or is that the July 11th reference  
16 that you just made?

17 MS. GRISWOLD: I believe that at the time of the last  
18 conference, the March 22nd conference, my co-counsel, Christine  
19 Magdo, raised July as an issue because of the other case  
20 agent's family vacation plans, which are scheduled to be  
21 July 17 to 27th. That remains the case. In addition to that,  
22 the other case agent has a July 11th trial date.

23 THE COURT: Here is the question I have, and I'm not  
24 yet granting the request for an adjournment, and in light of  
25 that, not yet granting the substitution of counsel. I am very

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1     averse to changing trial dates, as you probably all know. I  
2     can't do the week of July 11th for the simple reason that I am  
3     not here for the first two days of that week. I could probably  
4     manage to move it to the week of July 18th and overcome my  
5     aversion to granting adjournments in this solitary instance. I  
6     just don't know if that is doable on both your sides.

7             MR. DeVITA: It is acceptable to us, your Honor.

8             THE COURT: Ms. Griswold, it is not fair to prejudice  
9     the government at this point if witnesses or the like are  
10    unavailable, but I don't know from what you described whether  
11    you need both case agents here or you could proceed with just  
12    the one.

13            MS. GRISWOLD: The one case agent that is scheduled to  
14    be on vacation that week is also supposed to testify as our  
15    case agent testifying at trial at this point. I can certainly  
16    speak with him and see if he can move that vacation. But when  
17    we came on March 22nd, we had those dates in mind, and I know  
18    he has already purchased tickets for that flight. I'm happy to  
19    inquire whether they can move that and report back to the  
20    Court. I don't think it is without consequence for that case  
21    agent.

22            THE COURT: Okay. Mr. DeVita, here is my question for  
23    you: Right now, I'm not inclined to move the trial date, both  
24    because I was very clear with everybody that that was a firm  
25    date and very clear in particular that substitution of counsel

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1 wouldn't be granted if it might have an effect on the trial  
2 date. In that regard, Mr. Olins was certainly on notice that  
3 he needed to deal with this sooner rather than later and,  
4 presumably, in that regard find counsel who would be prepared  
5 to try the case on the date that it was scheduled for. Second,  
6 as you heard, I think my recollection was -- and Ms. Griswold  
7 has confirmed that that date was picked in part because of the  
8 unavailability of witnesses in July -- and in that regard, I  
9 think it is a little unfair to that witness to sort of change  
10 things at this juncture. I'm prepared to allow the  
11 substitution if you can tell me and affirm that you're prepared  
12 to go to trial on June 27th and leave open the possibility that  
13 it could be changed to July 18th if Ms. Griswold checks with  
14 the agent and indicates that the government is prepared to  
15 proceed at that time. It involves a little bit of risk on your  
16 part that that doesn't happen.

17 MR. DeVITA: Your Honor, I don't want to put Mr. Olins  
18 in a worse position of having to try to start the process over  
19 again of identifying counsel. My recollection in reading the  
20 transcript was that the government said it could adjust to the  
21 July date if necessary. That may have changed since then. I  
22 understand that. I don't want to leave Mr. Olins in a lurch.  
23 I would strongly request that the July 18 date, that the trial  
24 be adjourned until then if at all possible, and I will plan  
25 accordingly. I can't tell you whether the case in front of

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1 Judge Pauley is going to fold or not. I just don't know. I'm  
2 waiting for something from the government on that.

3 THE COURT: All right. Ms. Griswold, Mr. DeVita's  
4 recollection is somewhat accurate in the sense that Ms. Magdo  
5 indicated at the March conference that, in July, our agents are  
6 on other trials, but we could, if necessary, work around that.  
7 Has that changed since then?

8 MS. GRISWOLD: I spoke to both the agents before this  
9 conference, and I know that one of the agents has a July 11th  
10 trial date and that the other one has a booked vacation from  
11 the 17th to 27th. Of the two, the one with the vacation is the  
12 one that we would expect to testify. We could probably work  
13 around the July 11th date, and I am happy to check with the  
14 agent who has the vacation plan. I see what your Honor is  
15 pointing to, and I don't know specifically at the time that  
16 Ms. Magdo said that whether the agent with the vacation had a  
17 trial that has since gone away.

18 THE COURT: How quickly could you find out about the  
19 vacation situation? Do you know where it is? Could the agent  
20 fly in for a day to testify and then go back to vacation? It  
21 does seem a little bit unfair to deny Mr. Olins' desire to have  
22 counsel of his choice solely on the basis of the convenience of  
23 one witness, who may not even be an essential witness. I don't  
24 know if the agent is testifying about his or her personal  
25 involvement in something or testifying in a more general case

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1 agent type fashion.

2 MS. GRISWOLD: I can check with him right after this  
3 conference and get back to the Court. He is very responsive,  
4 likely within a couple of hours. I don't know where the trip  
5 is other than it's a family vacation.

6 THE COURT: Mr. DeVita, how do you want to proceed?  
7 I'm not inclined to definitively resolve this until I get a  
8 little more information concerning that.

9 MR. DeVITA: I would like to stay with Mr. Olins, and  
10 I think that that is only fair to him, and I think it would put  
11 him in an even more difficult position if, having gone as far  
12 as I have with him, to then withdraw. I hope it works out.

13 THE COURT: All right. It sounded like you were going  
14 to make a proposal as to how to proceed.

15 MR. DeVITA: One of the things I will do is get in  
16 touch with the assistant U.S. attorney on the other case and  
17 inform him what has transpired here, and I may be able to get  
18 an earlier lead on what is happening on that trial. I think it  
19 is more likely that the government is going to be able to find  
20 something out about its flexibility than I am, just because I  
21 know how long it takes to get a plea offer out of the U.S.  
22 Attorney's Office these days.

23 THE COURT: Okay. How about we do this: How about I  
24 reserve judgment on the formal request to substitute counsel  
25 and hear back from both of you with respect to your June trial

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1 and with respect to the agent's situation in the next day or  
2 two, and then I will issue an order and hope that we can sort  
3 this all out. If need be, I will have you guys back in and we  
4 will discuss how to handle it. Hopefully, we can resolve it to  
5 everybody's satisfaction.

6 Does that seem reasonable?

7 MR. DeVITA: That sounds reasonable, your Honor.

8 MS. GRISWOLD: Yes, your Honor. Thank you.

9 THE COURT: I will reserve judgment. Hopefully, as I  
10 said, we will sort it all out, and we will take it a step at a  
11 time.

12 Thank you very much.

13 (Adjourned)